



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0226-22</b>
<b>2. Advertiser :</b>	<b>United Petroleum</b>
<b>3. Product :</b>	<b>Food/Bev Groceries</b>
<b>4. Type of Advertisement/Media :</b>	<b>Promotional Material</b>
<b>5. Date of Determination</b>	<b>28-Sep-2022</b>
<b>6. DETERMINATION :</b>	<b>Upheld – Modified or Discontinued</b>

### ISSUES RAISED

AANA Food and Beverages Code\2.1 Not misleading or deceptive

### DESCRIPTION OF ADVERTISEMENT

This point of sale material features an image of two soft drink cans and the text "Any 2 for \$4 Coca Cola cans 250ML".

### THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

*Because it is misleading and falsely advertising a promotion that isn't a promotion at all.*

### THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

*Advertiser did not provide a response prior to the Panel's consideration.*

### THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Food and Beverages Advertising Code (the Food Code).



The Panel noted the complainant's concern that the advertisement is misleading by suggestion that the advertised price is a special deal, when it is the same as the regular price.

The Panel viewed the advertisement and noted the advertise did not provide a response.

The Panel noted that the product advertised is a beverage product and that therefore the provisions of the Food Code apply.

**Section 2.1 Advertising for Food or Beverage Products must not be misleading or deceptive or likely to mislead or deceive.**

The Panel Noted the Practice Note to this section of the Food Code which provides:

*"In determining whether advertising for food or beverage products is misleading or deceptive or likely to mislead or deceive, the Community Panel will consider the likely audience for the advertising, including whether the advertisement is directed at the public at large or a more targeted audience. The Community Panel will consider whether or not an Average Consumer within the target audience would have been misled or deceived or likely to be misled or deceived by the advertisement."*

The Panel noted that the target audience for this advertisement would be anyone shopping in the petrol station, and that this would include children.

The Panel noted that the product was usually priced at \$2 each, and that the two for \$4 promotion did not represent any saving.

A minority of the Panel considered that the advertisement did not state that the item was a sale item, or that you would save money by purchasing two of the product, but was simply promoting sales. A minority of the Panel considered that most people who were only wanting one drink would look at the individual price, which was still on the shelf under the paper showing the promotional price.

The majority of the Panel considered that most people would associate a promotion of two items for a particular price as being a special deal. The Panel considered that the expiration date on the product tag added to the impression that this was a special deal that was only available for a limited time. The Panel considered that people looking for a drink in a petrol station would make purchasing decisions quickly and the advertisement would draw their attention and inspire an additional purchase. The Panel considered that the advertisement was deceptive as an average consumer would likely come to the conclusion that purchasing two products was cheaper per item than purchasing one.



## **Section 2.1 Conclusion**

The Panel considered that the advertisement was misleading or deceptive and did breach Section 2.1 of the Food Code.

### **Conclusion**

Finding that the advertisement was in breach of Section 2.1 of the Food Code, the Panel upheld the complaint.

### **THE ADVERTISER'S RESPONSE TO DETERMINATION**

We acknowledge that the regular price ticket displayed and the promotional ticket both indicated the same individual product value.

Firstly, we would like to apologise for any inconvenience caused with this advertisement.

The promotional deal of "2 for \$4" was accurate however, the pricing of the individual ticket (when on regular price) was incorrect.

Our regular shelf-price for this product variety should have been \$2.20 which we acknowledge was not displayed at this store.

To rectify this concern, we have spoken directly to this store and had the ticket amended accordingly.

We have also checked their POS console system and confirmed that a single unit is scanning for \$2.20 when not on promotion (either single or '2 for' value deals).

To prevent this occurring at any of our other outlets, our administration team have also communicated a reminder to all stores so that the correct regular price tickets are being displayed.